

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 8/9/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PETER KELLY,	:	
	:	
Plaintiff,	:	1:22-cv-10923-GHW-SDA
	:	
-against -	:	<u>ORDER</u>
	:	
COMMUNICATION WORKERS OF	:	
AMERICA, AFL-CIO <i>and</i> VERIZON	:	
NEW YORK INC.,	:	
	:	
Defendants.	:	
	:	
-----	X	

GREGORY H. WOODS, United States District Judge:

On July 25, 2023, Magistrate Judge Aaron issued a Report and Recommendation recommending that the Court deny Defendants' motions to dismiss. Dkt. No. 33 ("R&R"). In that R&R, Judge Aaron determined that Plaintiff's Amended Complaint alleges plausible claims that Defendant Verizon New York Inc. ("Verizon") breached its collective bargaining agreement with Defendant Communication Workers of America, AFL-CIO (the "Union") by terminating Plaintiff's employment (First Count); that the Union unlawfully discriminated against Plaintiff with respect to the terms and conditions of his employment in violation of the National Labor Relations Act (Second Count); and that the Union breached the duty of fair representation it owed to Plaintiff (Third Count).


A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which

no party has timely objected. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008) (citation omitted); *see also* Fed. R. Civ. P. 72(b), advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining that a "district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record"). The Court therefore accepts and adopts the R&R in its entirety. For the reasons stated in the R&R, Defendants' motions to dismiss, Dkt. Nos. 24 and 27, are DENIED. The Clerk of Court is directed to terminate the motions pending at Dkt. Nos. 24 and 27.

SO ORDERED.

Dated: August 9, 2023
New York, New York



GREGORY H. WOODS
United States District Judge